

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Ayush - Dr. Mohammadi Fathima, Professor (UG) (Retd.) & Dr. Najam Sulthana, Research Officer (Retd.) – Implementation of Andhra Pradesh Administrative Tribunal, Hyderabad Orders dt.30.10.2008 in O.A.No. 5944/2007 and Orders dt.31.08.2010 in O.A.No. 7455/2007 – Notional promotion in the cadre of Chief Medical Officer / Professor (UG) / Reader (PG), for the panel year 2001-02 – Orders – Issued.

HEALTH, MEDICAL & FAMILY WELFARE (I.1) DEPARTMENT

G.O.Ms.No. 312

Dated :17.12.2012.

Read the following:

1. Orders dt. 30.10.2008 of the Hon'ble A.P.A.T., Hyd. In O.A.No.5944/2007.
2. Orders dt. 31.08.2010 of the Hon'ble A.P.A.T., Hyd. In O.A.No.7455/2007 with C.A.No.803/2008.
3. From the Commissioner of Ayush, AP, Hyderabad, Lr. No.14433/U.1/2007, dated. 19.01.2011

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ORDER:

In the reference 1st read above, the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad, in its orders dt. 30-10-2008 in O.A.No.5944/2007 has set aside the Government Memo. No.19952/I.1/2007-1, dt.19.02.2008 and directed the respondents to give notional promotion to Dr. Mohammadi Fathima, Professor (Retd.) as professor (Unani) by following Rule 6 of Andhra Pradesh State & Subordinate Service Rules in so far as the vacancies arose in the panel year 2001-02, owing to retirement of persons, who were promoted therein within a period of 8 weeks from the date of receipt of the order.

2. On instructions of the Government, the Commissioner of Ayush, A.P, Hyderabad, has filed W.P.No.14979/2009 in the Hon'ble High Court of A.P. and the Hon'ble High Court of A.P. in its orders dt.21.01.2010, has disposed the W.P. with a direction to the petitioner to convene the review Departmental Promotion Committee for the panel year 2001-02 and to consider promotion of the respondent in the vacancy arising out of retirement of Dr.Najam Fathima on 31.12.2001 in the category of CMO/Prof.(UG)/Reader (PG), if found fit.

3. Further, the Hon'ble High Court of Andhra Pradesh, Hyderabad held that however, the said promotion shall be only notional in view of the fact that she is actually working in the said promotional post only after 31.01.2007. She will be entitled for the other consequential benefits arising out of the said notional promotion.

4. On the above, the Govt have filed SLP (C), through CC No.6078/ 2012, in the Hon'ble Supreme Court of India, against the above High Court order dt 21.01.2010 in W.P.No. 14979/2009 and the Hon'ble Supreme Court of India, through Proceeding dated:13.4.2012, has dismissed the SLP on the ground of delay.

5. In another case, Dr.Najam Sultana has also filed O.A.No.7455/2007 before the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad with a similar request and the Hon'ble Andhra Pradesh Administrative Tribunal in its orders dt.31.08.2010 has set aside the Govt. Memo.No. 24160/I.1/2007, dt.21.01.2009 wherein the request of the applicant was rejected and directed the respondents to convene a review Departmental Promotion Committee for the panel year 2001-02 and consider the case of the applicant for promotion as per her eligibility and qualification and as per the rules prevailing during the panel year 2001-02, taking into account the vacancies that had arisen during the panel year due to retirements.

6. Further, the Hon'ble Andhra Pradesh Administrative Tribunal, Hyderabad also held that such promotion shall be notional and she would be entitled for consequential benefits arising out of the said notional promotion.

//P.T.O.//

7. On the above, the Government have filed a W.P. before the Hon'ble High Court, through W.P.No.30607/2012 and the Hon'ble High Court has disposed the W.P. stating that the writ petition is squarely covered by the Division Bench decision of this court passed in WP No. 14979 of 2009, dt. 21-01-2010. It has also been observed that the SLP filed against the order dated 21-01-2010 in the aforesaid writ petition has also been dismissed by the Hon'ble Supreme Court. In both the cases, the individuals have filed contempt Applications before the Andhra Pradesh Administrative Tribunal, for disobedience of its orders.

8. When the matter was referred to the General Administration Department, they have advised that there is no rule providing to conduct Review Departmental Promotion Committee due to revision of estimation of vacancies and the proposal of the Department is not a fit case for placing the same before the review Departmental Promotion Committee.

9. The Government, after careful examination of the matter, in the light of the orders issued by the Hon'ble Courts, hereby decided to issue notional promotion in respect of Dr. Mohammadi Fathima, Prof. UG (Retd.) & Dr. Najam Sulthana, Research Officer (Retd.) for the panel year 2001-02 in the cadre of Chief Medical Officer / Professor (UG)/ Reader (PG), in relaxation of Rules.

10. The Commissioner of Ayush, A.P, Hyderabad, shall take necessary action accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**AJAY SAWHNEY
PRINCIPAL SECRETARY TO GOVERNMENT**

To

The Commissioner of AYUSH, AP., Hyderabad.

The individuals through Commissioner of AYUSH.

Copy to:

The Government Pleader, Andhra Pradesh Administrative Tribunal. Hyderabad.

In response C.A.No. 200/2012 in O.A.No. 5944/2007

and C.A.No. 47/2011 in O.A.No. 7455/2007.

The Pay Accounts Officer, Hyderabad.

The Accountant General, AP., Hyderabad.

SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER